

SUBCHAPTER A—TRANSITION RULES AND REGULATIONS
[RESERVED]
SUBCHAPTER B—GENERAL PROVISIONS

**PART 2411—AVAILABILITY OF
OFFICIAL INFORMATION**

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AUTHORITY: 5 U.S.C. 552.

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§ 2411.1 Purpose and scope.

This part contains the regulations of the Federal Labor Relations Authority, the General Counsel of the Federal Labor Relations Authority and the Federal Service Impasses Panel providing for public access to information from the Authority, the General Counsel or the Panel. These regulations implement the Freedom of Information Act, as amended, 5 U.S.C. 552, and the policy of the Authority, the General Counsel and the Panel to disseminate information on matters of interest to the public and to disclose to members of the public on request such information contained in records insofar as is compatible with the discharge of their responsibilities, consistent with applicable law.

§ 2411.2 Delegation of authority.

(a) *Federal Labor Relations Authority/General Counsel of the Federal Labor Relations Authority.* Regional Directors of the Federal Labor Relations Authority, the Freedom of Information Officer of the Office of the General Counsel, Washington, DC, and the Solicitor of the Federal Labor Relations Authority are delegated the exclusive authority to act upon all requests for information, documents and records which are

received from any person or organization under § 2411.4(a).

(b) *Federal Service Impasses Panel.* The Executive Director of the Federal Service Impasses Panel is delegated the exclusive authority to act upon all requests for information, documents and records which are received from any person or organization under § 2411.4(b).

§ 2411.3 Information policy.

(a) *Federal Labor Relations Authority/General Counsel of the Federal Labor Relations Authority.* (1) It is the policy of the Federal Labor Relations Authority and the General Counsel of the Federal Labor Relations Authority to make available for public inspection and copying: (i) Final decisions and orders of the Authority and administrative rulings of the General Counsel; (ii) statements of policy and interpretations which have been adopted by the Authority or by the General Counsel and are not published in the FEDERAL REGISTER; and (iii) administrative staff manuals and instructions to staff that affect a member of the public (except those establishing internal operating rules, guidelines, and procedures for the investigation, trial, and settlement of cases). Any person may examine and copy items (i) through (iii) at each regional office of the Authority and at the offices of the Authority and the General Counsel, respectively, in Washington, DC, under conditions prescribed by the Authority and the General Counsel, respectively, and at reasonable times during normal working hours so long as it does not interfere with the efficient operations of the Authority and the General Counsel. To the extent required to prevent a clearly unwarranted invasion of personal privacy, identifying details may be deleted and, in each case, the justification for the deletion shall be fully explained in writing.

(2) It is the policy of the Authority and the General Counsel to make promptly available for public inspection and copying, upon request by any

person, other records where the request reasonably describes such records and otherwise conforms with the rules provided herein.

(b) *Federal Service Impasses Panel.* (1) It is the policy of the Federal Service Impasses Panel to make available for public inspection and copying: (i) Procedural determinations of the Panel; (ii) factfinding and arbitration reports; (iii) final decisions and orders of the Panel; (iv) statements of policy and interpretations which have been adopted by the Panel and are not published in the FEDERAL REGISTER; and (v) administrative staff manuals and instructions to staff that affect a member of the public. Any person may examine and copy items (i) through (v) at the Panel's offices in Washington, D.C., under conditions prescribed by the Panel, and at reasonable times during normal working hours so long as it does not interfere with the efficient operations of the Panel. To the extent required to prevent a clearly unwarranted invasion of personal privacy, identifying details may be deleted and, in each case, the justification for the deletion shall be fully explained in writing.

(2) It is the policy of the Panel to make promptly available for public inspection and copying, upon request by any person, other records where the request reasonably describes such records and otherwise conforms with the rules provided herein.

(c) The Authority, the General Counsel and the Panel shall maintain and make available for public inspection and copying the current indexes and supplements thereto which are required by 5 U.S.C. 552(a)(2) and, as appropriate, a record of the final votes of each member of the Authority and of the Panel in every agency proceeding. Any person may examine and copy such document or record of the Authority, the General Counsel or the Panel at the offices of either the Authority, the General Counsel, or the Panel, as appropriate, in Washington, D.C., under conditions prescribed by the Authority, the General Counsel or the Panel at reasonable times during normal working hours so long as it does not interfere with the efficient oper-

ations of either the Authority, the General Counsel, or the Panel.

(d) The Authority, the General Counsel or the Panel may decline to disclose any matters exempted from the disclosure requirements in 5 U.S.C. 552(b), particularly those that are:

(1)(i) Specifically authorized under criteria established by an executive order to be kept secret in the interest of national defense or foreign policy and (ii) are in fact properly classified pursuant to such executive order;

(2) Related solely to internal personnel rules and practices of the Authority, the General Counsel or the Panel;

(3) Specifically exempted from disclosure by statute (other than 5 U.S.C. 552(b)), provided that such statute:

(i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

(ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Interagency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; or

(7) Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would:

(i) Interfere with an enforcement proceeding;

(ii) Deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Constitute an unwarranted invasion of personal privacy;

(iv) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source;

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(v) Disclose investigative techniques and procedures; or

(vi) Endanger the life or physical safety of law enforcement personnel.

(e)(1) The formal documents constituting the record in a case or proceeding are matters of official record and, until destroyed pursuant to applicable statutory authority, are available to the public for inspection and copying at the appropriate regional office of the Authority, or the offices of the Authority, the General Counsel or the Panel in Washington, D.C., as appropriate, under conditions prescribed by the Authority, the General Counsel or the Panel at reasonable times during normal working hours so long as it does not interfere with the efficient operations of the Authority, the General Counsel or the Panel.

(2) The Authority, the General Counsel or the Panel, as appropriate, shall certify copies of the formal documents upon request made a reasonable time in advance of need and payment of lawfully prescribed costs.

(f)(1) Copies of forms prescribed by the Authority for the filing of charges and petitions may be obtained without charge from any regional office of the Authority.

(2) Copies of forms prescribed by the Panel for the filing of requests may be obtained without charge from the Panel's offices in Washington, DC.

§ 2411.4 Procedure for obtaining information.

(a) *Federal Labor Relations Authority/General Counsel of the Federal Labor Relations Authority.* Any person who desires to inspect or copy any records, documents or other information of the Authority or the General Counsel, covered by this part, other than those specified in paragraphs (a)(1) and (c) of § 2411.3, shall submit a written request to that effect as follows:

(1) If the request is for records, documents or other information in a regional office of the Authority, it should be made to the appropriate Regional Director;

(2) If the request is for records, documents or other information in the Office of the General Counsel and located in Washington, DC, it should be made to the Freedom of Information Officer,

Office of the General Counsel, Washington, DC; and

(3) If the request is for records, documents or other information in the offices of the Authority in Washington, D.C., it should be made to the Solicitor of the Authority, Washington, D.C.

(b) *Federal Service Impasses Panel.* Any person who desires to inspect or copy any records, documents or other information of the Panel covered by this part, other than those specified in paragraphs (b)(1) and (c) of § 2411.3, shall submit a written request to that effect to the Executive Director, Federal Service Impasses Panel, Washington, DC.

(c) All requests under this part should be clearly and prominently identified as a request for information under the Freedom of Information Act and, if submitted by mail or otherwise submitted in an envelope or other cover, should be clearly identified as such on the envelope or other cover. If a request does not comply with the provisions of this paragraph, it shall not be deemed received by the appropriate Regional Director, the Freedom of Information Officer of the Office of the General Counsel, the Solicitor of the Authority, or the Executive Director of the Panel, as appropriate, until the time it is actually received by such person.

§ 2411.5 Identification of information requested.

(a) Each request under this part should reasonably describe the records being sought in a way that they can be identified and located. A request should include all pertinent details that will help identify the records sought.

(b) If the description is insufficient, the officer processing the request will so notify the person making the request and indicate the additional information needed. Every reasonable effort shall be made to assist in the identification and location of the record sought.

(c) Upon receipt of a request for records, the appropriate Regional Director, the Freedom of Information Officer of the Office of the General Counsel, the Solicitor of the Authority, or the Executive Director of the Panel, as

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appropriate, shall enter it in a public log. The log shall state the date and time received, the name and address of the person making the request, the nature of the records requested, the action taken on the request, the date of the determination letter sent pursuant to paragraphs (b) and (c) of § 2411.6, the date(s) any records are subsequently furnished, the number of staff-hours and grade levels of persons who spent time responding to the request, and the payment requested and received.

§ 2411.6 Time limits for processing requests.

(a) All time limits established pursuant to this section shall begin as of the time at which a request for records is logged in by the appropriate Regional Director, the Freedom of Information Officer of the Office of the General Counsel, the Solicitor of the Authority, or the Executive Director of the Panel, as appropriate, processing the request pursuant to paragraph (c) of § 2411.5. An oral request for records shall not begin any time requirement. A written request for records sent to other than the appropriate officer will be forwarded to that officer by the receiving officer, but in that event the applicable time limit for response set forth in paragraph (b) of this section shall begin upon the request being logged in as required by paragraph (c) of § 2411.5.

(b) Except as provided in § 2411.8, the appropriate Regional Director, the Freedom of Information Officer of the Office of the General Counsel, the Solicitor of the Authority, or the Executive Director of the Panel, as appropriate, shall, within twenty (20) working days following receipt of the request, respond in writing to the requester, determining whether, or the extent to which, the request shall be complied with.

(1) If all the records requested have been located and a final determination has been made with respect to disclosure of all of the records requested, the response shall so state.

(2) If all of the records have not been located or a final determination has not been made with respect to disclosure of all the records requested, the response shall state the extent to which the records involved shall be dis-

closed pursuant to the rules established in this part.

(3) If the request is expected to involve allowed charges in excess of \$250.00, the response shall specify or estimate the fee involved and shall require prepayment of any charges in accordance with the provisions of paragraph (g) of § 2411.10 before the request is processed further.

(4) Whenever possible, the response relating to a request for records that involves a fee of less than \$250.00 shall be accompanied by the requested records. Where this is not possible, the records shall be forwarded as soon as possible thereafter, consistent with other obligations of the Authority, the General Counsel or the Panel.

(c) If any request for records is denied in whole or in part, the response required by paragraph (b) of this section shall notify the requester of the denial. Such denial shall specify the reason therefor, set forth the name and title or position of the person responsible for the denial, and notify the person making the request of the right to appeal the denial under the provisions of § 2411.7.

[45 FR 3488, Jan. 17, 1980, as amended at 52 FR 26128, July 13, 1987; 62 FR 60997, Nov. 14, 1997]

§ 2411.7 Appeal from denial of request.

(a) *Federal Labor Relations Authority/General Counsel of the Federal Labor Relations Authority.* (1) Whenever any request for records is denied, a written appeal may be filed within thirty (30) days after the requester receives notification that the request has been denied or after the requester receives any records being made available, in the event of partial denial. If the denial was made by a Regional Director or by the Freedom of Information Officer of the Office of the General Counsel, the appeal shall be filed with the General Counsel in Washington, DC. If the denial was made by the Solicitor of the Authority, the appeal shall be filed with the Chairman of the Authority in Washington, DC.

(2) The Chairman of the Authority or the General Counsel, as appropriate, shall, within twenty (20) working days from the time of receipt of the appeal, except as provided in § 2411.8, make a

determination on the appeal and respond in writing to the requester, determining whether, or the extent to which, the request shall be complied with.

(i) If the determination is to comply with the request and the request is expected to involve an assessed fee in excess of \$25.00, the determination shall specify or estimate the fee involved and shall require prepayment of any charges due in accordance with the provisions of paragraph (a) of § 2411.10 before the records are made available.

(ii) Whenever possible, the determination relating to a request for records that involves a fee of less than \$25.00 shall be accompanied by the requested records. Where this is not possible, the records shall be forwarded as soon as possible thereafter, consistent with other obligations of the Authority or the General Counsel.

(b) *Federal Service Impasses Panel.* (1) Whenever any request for records is denied by the Executive Director, a written appeal may be filed with the Chairman of the Panel within thirty (30) days after the requester receives notification that the request has been denied or after the requester receives any records being made available, in the event of partial denial.

(2) The Chairman of the Panel, within twenty (20) working days from the time of receipt of the appeal, except as provided in § 2411.8, shall make a determination on the appeal and respond in writing to the requester, determining whether, or the extent to which, the request shall be complied with.

(i) If the determination is to comply with the request and the request is expected to involve an assessed fee in excess of \$25.00, the determination shall specify or estimate the fee involved and shall require prepayment of any charges due in accordance with the provisions of paragraph (a) of § 2411.10 before the records are made available.

(ii) Whenever possible, the determination relating to a request for records that involves a fee of less than \$25.00 shall be accompanied by the requested records. Where this is not possible, the records shall be forwarded as soon as possible thereafter, consistent with other obligations of the Panel.

(c) If on appeal the denial of the request for records is upheld in whole or in part by the Chairman of the Authority, the General Counsel, or the Chairman of the Panel, as appropriate, the person making the request shall be notified of the reasons for the determination, the name and title or position of the person responsible for the denial, and the provisions for judicial review of that determination under 5 U.S.C. 552(a)(4). Even though no appeal is filed from a denial in whole or in part of a request for records by the person making the request, the Chairman of the Authority, the General Counsel or the Chairman of the Panel, as appropriate, may, without regard to the time limit for filing of an appeal, sua sponte initiate consideration of a denial under this appeal procedure by written notification to the person making the request. In such event the time limit for making the determination shall commence with the issuance of such notification.

§ 2411.8 Modification of time limits.

(a) In unusual circumstances as specified in this section, the time limits prescribed with respect to initial determinations or determinations on appeal may be extended by written notice from the officer handling the request (either initial or on appeal) to the person making such request setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in a total extension of more than ten (10) working days. As used in this section, "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of the particular request:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) The need to search for, collect and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a

substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

(b) Expedited processing of a request for records, or an appeal of a denial of a request for expedited processing, shall be provided when the requester demonstrates a compelling need for the information and in other cases as determined by the officer processing the request. A requester seeking expedited processing can demonstrate a compelling need by submitting a statement certified by the requester to be true and correct to the best of such person's knowledge and belief and that satisfies the statutory and regulatory definitions of compelling need. Requesters shall be notified within ten (10) calendar days after receipt of such a request whether expedited processing, or an appeal of a denial of a request for expedited processing, was granted. As used in this section, "compelling need" means:

(1) That a failure to obtain requested records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(2) With respect to a request made by a person primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged Federal Government activity.

[64 FR 18799, Apr. 16, 1999]

§ 2411.9 Effect of failure to meet time limits.

Failure by the Authority, the General Counsel or the Panel either to deny or grant any request under this part within the time limits prescribed by the Freedom of Information Act, as amended, 5 U.S.C. 552, and these regulations shall be deemed to be an exhaustion of the administrative remedies available to the person making this request.

§ 2411.10 Fees.

(a) *Definitions.* For the purpose of this section:

(1) The term *direct costs* means those expenditures which the Authority, the General Counsel or the Panel actually incurs in searching for and duplicating

(and in the case of commercial requesters, reviewing) documents to respond to a FOIA request. Direct costs include, for example, the salary of the employee performing work (the basic rate of pay for the employee plus 16 percent of the rate to cover benefits) and the cost of operating duplicating machinery. Not included in direct costs are overhead expenses such as costs of space, and heating or lighting the facility in which the records are stored.

(2) The term *search* includes all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within documents. Searches may be done manually or by computer using existing programming.

(3) The term *duplication* refers to the process of making a copy of a document necessary to respond to a FOIA request. Such copies can take the form of paper copy, microfilm, audio-visual materials, or machine readable documentation (e.g., magnetic tape or disk), among others.

(4) The term *review* refers to the process of examining documents located in response to a commercial use request (see paragraph (a)(5) of this section) to determine whether any portion of any document located is permitted to be withheld. It also includes processing any documents for disclosure, e.g., doing all that is necessary to excise them and otherwise prepare them for release. Review does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(5) The term "*commercial use*" request refers to a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made. In determining whether a requester properly belongs in this category, the Authority, the General Counsel or the Panel will look first to the use to which a requester will put the document requested. Where the Authority, the General Counsel or the Panel has reasonable cause to doubt the use to which a requester will put the records sought, or where that use is not clear from the request itself, the Authority, the General

Counsel or the Panel may seek additional clarification before assigning the request to a specific category.

(6) The term *educational institution* refers to a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

(7) The term *non-commercial scientific institution* refers to an institution that is not operated on a "commercial" basis as that term is referenced in paragraph (a)(5) of this section, and which is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(8) The term *representative of the news media* refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term *news* means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of "news") who make their products available for purchase or subscription by the general public. These examples are not intended to be all-inclusive. In the case of "freelance" journalists, they may be regarded as working for a news organization if they demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it. A publication contract would be the clearest proof, but the Authority, the General Counsel or the Panel may also look to the past publication record of a requester, press accreditation, guild membership, business registration, Federal Communications Commission licensing, or similar credentials of a requester in making this determination.

(b) *Exceptions to fee charges.* (1) With the exception of requesters seeking documents for a commercial use, the Authority, the General Counsel or the

Panel will provide the first 100 pages of duplication and the first two hours of search time without charge. The word "pages" in this paragraph refers to paper copies of standard size, usually 8½" by 11", or their equivalent in microfiche or computer disks. The term "search time" in this paragraph is based on a manual search for records. In applying this term to searches made by computer, when the cost of the search as set forth in paragraph (d)(2) of this section equals the equivalent dollar amount of two hours of the salary of the person performing the search, the Authority, the General Counsel or the Panel will begin assessing charges for computer search.

(2) The Authority, the General Counsel, or the Panel will not charge fees to any requester, including commercial use requesters, if the cost of collecting the fee would be equal to or greater than the fee itself.

(3)(i) The Authority, the General Counsel or the Panel will provide documents without charge or at reduced charges if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(ii) In determining whether disclosure is in the public interest under paragraph (b)(3)(i) of this section, the Authority, the General Counsel, and the Panel will consider the following factors:

(a) *The subject of the request.* Whether the subject of the requested records concerns "the operations or activities of the government";

(b) *The informative value of the information to be disclosed.* Whether the disclosure is "likely to contribute" to an understanding of government operations or activities;

(c) *The contribution to an understanding of the subject by the general public likely to result from disclosure.* Whether disclosure of the requested information will contribute to "public understanding";

(d) *The significance of the contribution to the public understanding.* Whether the

disclosure is likely to contribute “significantly” to public understanding of government operations or activities;

(e) *The existence and magnitude of a commercial interest.* Whether the requester has a commercial interest that would be furthered by the requested disclosure; and, if so

(f) *The primary interest in disclosure.* Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is “primary in the commercial interest of the requester.”

(iii) A request for a fee waiver based on the public interest under paragraph (b)(3)(i) of this section must address these factors as they apply to the request for records in order to be considered by the Authority, the General Counsel, or the Panel.

(c) *Level of fees to be charged.* The level of fees to be charged by the Authority, the General Counsel or the Panel, in accordance with the schedule set forth in paragraph (d) of this section, depends on the category of the requester. The fee levels to be charged are as follows:

(1) A request for documents appearing to be for commercial use will be charged to recover the full direct costs of searching for, reviewing for release, and duplicating the records sought.

(2) A request for documents from an educational or non-commercial scientific institution will be charged for the cost of reproduction alone, excluding charges for the first 100 pages. To be eligible for inclusion in this category, requesters must show that the request is being made under the auspices of a qualifying institution and that the records are not sought for a commercial use, but are sought in furtherance of scholarly (if the request is from an educational institution) or scientific (if the request is from a non-commercial scientific institution) research.

(3) The Authority, the General Counsel or the Panel shall provide documents to requesters who are representatives of the news media for the cost of reproduction alone, excluding charges for the first 100 pages.

(4) The Authority, the General Counsel or the Panel shall charge requesters who do not fit into any of the categories above fees which recover the full direct cost of searching for and reproducing records that are responsive to the request, except that the first 100 pages of reproduction and the first two hours of search time shall be furnished without charge. Requests from record subjects for records about themselves filed in Authority, General Counsel, or Panel systems of records will continue to be treated under the fee provisions of the Privacy Act of 1974, which permits fees only for reproduction.

All requesters must reasonably describe the records sought.

(d) The following fees shall be charged in accordance with paragraph (c) of this section:

(1) *Manual searches for records.* The salary rate (i.e., basic pay plus 16 percent) of the employee(s) making the search. Search time under this paragraph and paragraph (d)(2) of this section may be charged for even if the Authority, the General Counsel or the Panel fails to locate records or if records located are determined to be exempt from disclosure.

(2) *Computer searches for records.* \$4.15 per quarter hour, which the Authority, the General Counsel and the Panel determined to be the actual direct cost of providing the service, including computer search time directly attributable to searching for records responsive to a FOIA request, runs, and operator salary apportionable to the search.

(3) *Review of records.* The salary rate (i.e., basic pay plus 16 percent) of the employee(s) conducting the review. This charge applies only to requesters who are seeking documents for commercial use, and only to the review necessary at the initial administrative level to determine the applicability of any relevant FOIA exemptions, and not at the administrative appeal level of an exemption already applied.

(4) *Duplication of records.* Twenty-five cents per page for paper copy reproduction of documents, which the Authority, the General Counsel and the Panel determined is the reasonable direct cost of making such copies, taking into account the average salary of the operator and the cost of the reproduction

machinery. For copies of records prepared by computer, such as tapes or printouts, the Authority, the General Counsel or the Panel shall charge the actual cost, including operator time, of production of the tape or printout.

(5) *Forwarding material to destination.* Postage, insurance and special fees will be charged on an actual cost basis.

(e) *Aggregating requests.* When the Authority, the General Counsel or the Panel reasonably believes that a requester or group of requesters is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, the Authority, the General Counsel or the Panel will aggregate any such requests and charge accordingly.

(f) *Charging interest.* Interest at the rate prescribed in 31 U.S.C. 3717 may be charged those requesters who fail to pay fees charged, beginning on the 30th day following the billing date. Receipt of a fee by the Authority, the General Counsel or the Panel, whether processed or not, will stay the accrual of interest.

(g) *Advanced payments.* The Authority, the General Counsel or the Panel will not require a requester to make an advance payment, i.e., payment before work is commenced or continued on a request, unless:

(1) The Authority, the General Counsel or the Panel estimates or determines that allowable charges that a requester may be required to pay are likely to exceed \$250. Then the Authority, the General Counsel or the Panel will notify the requester of the likely cost and obtain satisfactory assurance of full payment where the requester has a history of prompt payment of FOIA fees, or require an advance payment of an amount up to the full estimated charges in the case of requesters with no history of payment; or

(2) A requester has previously failed to pay a fee charged in a timely fashion (i.e., within 30 days of the date of the billing), in which case the Authority, the General Counsel or the Panel requires the requester to pay the full amount owed plus any applicable interest as provided above or demonstrate that the requester has, in fact, paid the fee, and to make an advance payment of the full amount of the estimated fee

before the agency begins to process a new request or a pending request from that requester. When the Authority, the General Counsel or the Panel acts under paragraph (g)(1) or (2) of this section, the administrative time limits prescribed in subsection (a)(6) of the FOIA (i.e., 20 working days from receipt of initial requests and 20 working days from receipt of appeals from initial denial, plus permissible extension of these time limits) will begin only after the Authority, the General Counsel or the Panel has received fee payments described above.

(h) Requests for copies of transcripts of hearings should be made to the official hearing reporter. However, a person may request a copy of a transcript of a hearing from the Authority, the Panel or the General Counsel, as appropriate. In such instances, the Authority, the General Counsel or the Panel, as appropriate, may, by agreement with the person making the request, make arrangements with commercial firms for required services to be charged directly to the requester.

(i) Payment of fees shall be made by check or money order payable to the U.S. Treasury.

[52 FR 26128, July 13, 1987, as amended at 62 FR 60997, Nov. 14, 1997]

§2411.11 Compliance with subpoenas.

No member of the Authority or the Panel, or the General Counsel, or other officer or employee of the Authority, the Panel, or the General Counsel shall produce or present any files, documents, reports, memoranda, or records of the Authority, the Panel or the General Counsel, or testify in behalf of any party to any cause pending in any arbitration or in any court or before the Authority or the Panel, or any other board, commission, or administrative agency of the United States, territory, or the District of Columbia with respect to any information, facts, or other matter to their knowledge in their official capacity or with respect to the contents of any files, documents, reports, memoranda, or records of the Authority, the Panel or the General Counsel, whether in answer to a subpoena, subpoena duces tecum, or otherwise, without the written consent of

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the Authority, the Panel or the General Counsel, as appropriate. Whenever any subpoena, the purpose for which is to adduce testimony or require the production of records as described above, shall have been served on any member or other officer or employee of the Authority, the Panel or the General Counsel, such person will, unless otherwise expressly directed by the Authority, the Panel or the General Counsel, as appropriate, and as provided by law, move pursuant to the applicable procedure to have such subpoena invalidated on the ground that the evidence sought is privileged against disclosure by this rule.

§ 2411.12 Annual report.

On or before March 1 of each calendar year, the Executive Director of the Authority shall submit a report of the activities of the Authority, the General Counsel and the Panel with regard to public information requests during the preceding calendar year to the Speaker of the House of Representatives and the President of the Senate for referral to the appropriate committees of the Congress. The report shall include for such calendar year all information required by 5 U.S.C. 552(d) and such other information as indicates the efforts of the Authority, the General Counsel and the Panel to administer fully the provisions of the Freedom of Information Act, as amended.

PART 2412—PRIVACY

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- 2412.6 Initial decision on access requests.
- 2412.7 Special procedures; medical records.
- 2412.8 Limitations on disclosures.
- 2412.9 Accounting of disclosures.
- 2412.10 Requests for correction or amendment of records.
- 2412.11 Initial decision on correction or amendment.
- 2412.12 Amendment or correction of previously disclosed records.
- 2412.13 Agency review of refusal to provide access to, or amendment or correction of, records.
- 2412.14 Fees.
- 2412.15 Penalties.

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2412.16 Exemptions.

AUTHORITY: 5 U.S.C. 552a.

SOURCE: 45 FR 3491, Jan. 17, 1980, unless otherwise noted.

§ 2412.1 Purpose and scope.

This part contains the regulations of the Federal Labor Relations Authority, the General Counsel of the Federal Labor Relations Authority and the Federal Service Impasses Panel implementing the Privacy Act of 1974, as amended, 5 U.S.C. 552a. The regulations apply to all records maintained by the Authority, the General Counsel and the Panel that are contained in a system of records, as defined herein, and that contain information about an individual. The regulations in this part set forth procedures that: (a) Authorize an individual's access to records maintained about the individual; (b) limit the access of other persons to those records; and (c) permit an individual to request the amendment or correction of records about the individual.

§ 2412.2 Definitions.

For the purposes of this part—

(a) *Individual* means a citizen of the United States or an alien lawfully admitted for permanent residence.

(b) *Maintain* includes maintain, collect, use or disseminate.

(c) *Record* means any item, collection or grouping of information about an individual that is maintained by the Authority, the General Counsel and the Panel including, but not limited to, the individual's education, financial transactions, medical history and criminal or employment history and that contains the individual's name, or the identifying number, symbol or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.

(d) *System of records* means a group of any records under the control of the Authority, the General Counsel and the Panel from which information is retrieved by the name of the individual or by some identifying particular assigned to the individual.

(e) *Routine use* means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.